

REMARKS

Claims 1-25 are pending in this application. After claim cancellations, additions and amendments herein, claims 1-3, 5-14, 16-22 and 24-28 will be pending in this application.

In the Office Action, the Examiner objected to the drawings, stating that Figures 1 and 2 should be designated "Prior Art". In response, Applicant herewith submits one (1) replacement sheet of drawings containing Figures 1 and 2, which have been designated PRIOR ART.

The Examiner rejected claims 10, 12, 20 and 22 under 35 U.S.C. § 112, second paragraph, as being indefinite for failure to particularly point out and distinctly claim the subject matter of the invention. The Examiner stated that claims 12 (Applicant assumes that the Examiner meant claim 10 in this instance) and 20 recite "a slit" and it is unclear whether the previously recited slit or another slit is intended; that there is insufficient antecedent basis for the limitations "said cup" in the second line and "said body" in the eighth line of claim 12; and that there is insufficient antecedent basis for the limitation "said blank" in the second line of claim 22. In response, Applicant has amended claims 10 and 20 to replaced the language "a slit meet" with "each slit meets", has amended claim 12 to replace "said cup" with "said container" and "said body" with "said blank", and has amended claim 22 to replace "said blank" with "said body". Applicant submits that these rejections have been overcome.

The Examiner rejected claims 1, 2, 4, 5, 10-13, 15, 16, 20, 21, 23 and 24 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 248,770 (Mark et al.). According to the Examiner, Mark et al. discloses an insulating sleeve capable of being used for encircling a conical container, and being made from a rectangular blank formed into a cylindrical shape, with slits cut perpendicularly from the upper edge, ending in a cut out region of circular configuration, and comprising a notch in the upper edge of the sleeve.

In addition, the Examiner rejected claims 3, 8, 14 and 22 under 35 U.S.C. § 103(a) as being obvious over Mark et al., stating that cutting the slits from about one-half to about four-fifth of the way across the body and having from two to six slits are design choices, and the sleeve of Mark et al. would be inherently capable of being produced with slits meeting these

IN THE DRAWINGS

Please replace the one sheet of drawings containing Figures 1 and 2 with the attached one (1) replacement sheet of drawings containing Figures 1 and 2, which have been designated PRIOR ART. This replacement sheet has also been marked within its top margin with the designation "REPLACEMENT SHEET", as instructed by the Examiner.

requirements. Furthermore, the Examiner rejected claims 6, 7, 18, 19 and 25 under 35 U.S.C. § 103(a) as being obvious over Mark et al. in view of U.S. Patent No. 5,445,315 (Shelby). According to the Examiner, Shelby discloses an insulating sleeve formed from a rectangular blank having fold lines extending across the blank to allow the assembled sleeve to lie flat as a folded blank and be opened by squeezing the folded blank inward, and it would have been obvious to have incorporated fold lines extending across the blank as disclosed by Shelby into the insulating sleeve disclosed by Mark et al.

The Examiner also rejected claims 1, 2, 9, 12, 13 and 17 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 538,699 (Redlich). According to the Examiner, Redlich discloses an insulating sleeve capable of being used for encircling a conical container and being made from a rectangular blank formed into a cylindrical shape, with slits cut perpendicularly from the upper edge and cut out portions at the bottom edge opposite the slits.

Applicant traverses these rejections. Applicant has amended independent claims 1, 12 and 21 so as to incorporate the limitations of dependent claims 4, 15 and 23, respectively (Applicant has accordingly canceled claims 4, 15 and 23). Namely, independent claims 1, 12 and 21 now all recite that each slit comprises an entry point at the top edge of the body/blank and a terminal point at least partway across the body/blank, and the body/blank comprises a cut out region at the terminal portion of each slit that serves to spread tearing pressure caused by hoop stress caused by said insertion of a container within the sleeve/holder.

None of the references teach or even suggest a feature like the cut out region at the terminal portion of the slit within the blank/body. Applicant notes that the Examiner glossed over this “cut out region” limitation in the Office Action and did not find any corresponding structure in the prior art, stating only, with respect to the § 102(b) rejection based upon Mark et al., that “the slits ending in a cut out region of circular configuration”. However, Mark et al. states only that the “upper edge [...] is slitted or cut out to form a series of elastic fingers [spring-fingers]” (see column 1, lines 21-22 and 35-36), and no specific mention is made of the area between the fingers having a circular or other configuration. This stated circular ending configuration is the Examiner’s supposition based upon the drawings, but need not necessarily be

present in any embodiment of Mark et al. In fact, however, the shape of the terminal end of the region between fingers in Mark et al. appears to be merely a matter of convenience as to how the terminal points of the fingers are joined together within the material. This could be any shape or simply a juncture, with no shape at all.

Nevertheless, there is no teaching or even suggestion in Mark et al. of a "cut out region" within the material of the blank/body (the Examiner did not even allege that such a feature is present in Redlich and did not reject claims 4, 15 and 23 based upon Redlich). No region is shown cut-out in Mark et al. beyond the specific narrow area between the fingers, and the terminal end of the region between fingers is nowhere shown to be "cut out". Moreover, there is no indication whatsoever that the rounded configuration of the terminal end of the region between fingers in Mark et al. serves to spread tearing pressure caused by hoop stress caused by said insertion of a container within the bottle wrapper of Mark et al. In fact, to the contrary, the terminal ends of the regions between fingers in Mark et al. will generally never even have to face hoop stress due to spreading of the fingers, because the bottle wrapper of Mark et al. is not intended or configured to be used to encircle a frusto-conical container having a wider end located at the top, but is instead intended and configured to be used to wrap a bottle having a cylindrical body and a frusto-conical top that is narrower at its top. Accordingly, Applicant believes that amended claims 1-3, 5-14, 16-22 and 25 are patentable, and Applicant requests that the Examiner withdraw his rejection.

In order to more particularly define the invention, Applicant has added new claims 26, 27 and 28 dependent upon claims 1, 12 and 21, respectively, to specify that the cut out region has a width greater than the width of the slit. These new claims do not constitute the addition of new matter because the structure of the cut out regions having a width greater than the width of the slit is shown in all of Figures 4, 5, 7, 8 and 9A-9V. Applicant believes that these new claims 26-28 are patentable.

Conclusion

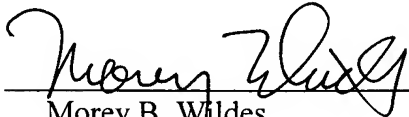
Reconsideration of the present application, as amended, is requested. If, upon review, the Examiner is unable to issue an immediate Notice of Allowance, the Examiner is respectfully

requested to telephone Applicant's undersigned attorney in order to resolve any outstanding issues and advance the prosecution of the case.

An early and favorable action on the merits is earnestly solicited.

Respectfully Submitted,

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